

United States District Court  
Southern District of Texas  
FILED

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

MAY 29 2018

David J. Bradley, Clerk

UNITED STATES OF AMERICA

v.

EUGENE SCOTT MACKIE

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§  
§

Criminal No.

M-18-962

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

At all times material to this Information:

1. A "health care benefit program" under Section 24(b) of Title 18, United States Code, was defined as "any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract."
2. The Medicare Program ("Medicare") was a federal health care program providing benefits to individuals who were over the age of 65 or disabled. The Centers for Medicare and Medicaid Services, a federal agency under the United States Department of Health and Human Services ("HHS"), administered Medicare.
3. The Texas Medical Assistance Program, also known as the Texas Medicaid Program ("Medicaid"), was a federal and state health care benefit program. The Health and Human Services Commission, a Texas governmental agency, and HHS administered the Texas Medicaid Program.
4. Medicare and Medicaid were health care benefit programs as defined by Title 18,

United States Code, Section 24(b). In addition, Medicare and Medicaid were Federal health care programs, as defined by Title 42, United States Code, Section 1320a-7b(f).

5. Individuals who qualify for Medicare and Medicaid benefits are commonly referred to as "beneficiaries."

**THE DEFENDANT**

6. Defendant EUGENE SCOTT MACKIE was a resident of Hidalgo County, Texas and worked as a physician within the McAllen Division of the Southern District of Texas.

**COUNT ONE**  
**CONSPIRACY TO SOLICIT OR RECEIVE ILLEGAL REMUNERATIONS**  
**(18 U.S.C. § 371 and 42 U.S.C. § 1320a-7b(b)(1)(A))**

7. Beginning in or about January 2011 through in or about August 2013, in the McAllen Division of the Southern District of Texas, and elsewhere within the jurisdiction of the Court, the exact dates being unknown, defendant,

**EUGENE SCOTT MACKIE**

knowingly and willfully did combine, conspire, confederate and agree with others known and unknown, to violate Title 42, United States Code, Section 1320a-7b(b)(1)(A), by knowingly and willfully soliciting and receiving remuneration, including a kickback, bribe, and rebate, directly or indirectly, overtly or covertly, in cash or in kind, in exchange for the referral of beneficiaries, for the furnishing and the arranging of the furnishing of any item and service for which payment may be made in whole and in part under a Federal health care program.

**OBJECT OF THE CONSPIRACY**

8. The object and purpose of the conspiracy and scheme was for the defendant EUGENE SCOTT MACKIE and others to unlawfully enrich themselves through an illegal kickback scheme.

**MANNER AND MEANS**

9. In order to execute and carry out the illegal activities, defendant EUGENE SCOTT MACKIE agreed to sign home health referrals and authorizations in relation to home health agencies, owned and controlled by his co-conspirators, in exchange for being given access to patients at adult day care facilities, owned and controlled by his co-conspirators, for whom defendant submitted claims to Medicaid for items and services.

**OVERT ACTS**

9. In furtherance of the conspiracy, and to accomplish its object and purpose, defendant EUGENE SCOTT MACKIE and others committed and caused to be committed, in the McAllen Division of the Southern District of Texas, the following overt acts:

- a. From in or around January 2011 to August 2013, Defendant referred patients to a home health company owned and controlled by a co-conspirator, in exchange for being given access to patients at adult day care facilities owned and controlled by co-conspirators.
- b. Defendant signed home health authorizations and reauthorizations, known as CMS-485 forms, for patients of home health companies owned and controlled by his co-conspirators.
- c. Defendant signed CMS-485 forms prepared by his co-conspirators, or others under their direction, without verifying the accuracy of the information contained in the form, including whether the patient was homebound.
- d. Defendant prescribed items and services, such as hearing aids, to patients at adult day care facilities under the ownership or control of his co-conspirators.
- e. Defendant received a gross amount of approximately \$170,000 from Medicaid in connection with the prescription of items and services, such as hearing aids, to Medicaid beneficiaries at adult day care facilities owned and controlled by his co-conspirators.

All in violation of Title 18, United States Code, Section 371 and Title 42, United States Code, Section 1320a-7b(b)(1)(A).

RYAN K. PATRICK  
UNITED STATES ATTORNEY

  
Andrew R. Swartz  
ANDREW R. SWARTZ  
ASSISTANT UNITED STATES ATTORNEY